THE HON'BLE SRI JUSTICE C.V. RAMULU

Thursday, 3rd day of January, 2007

W.P.No.7242 of 2004

Between:-

Agoli Madhanna
and others … Petitioners

and

Government of Andhra Pradesh,
rep. by its Secretary,
Irrigation and Command Area
Development Department,
Secretariat, Secretariat Building
Hyderabad and others … Respondents

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ORAL ORDER:

This Writ Petition is filed seeking a Mandamus to declare the action of the respondents in seeking to dispossess the petitioners from their lands situated in Sy.Nos.37-B to an extent of Ac.2.40, 37 A/1 to an extent of Ac.1.60 cts, 37 to an extent of Ac.0.95 cts, 37 A/4 to an extent of Ac.0.80 cts, 37 to an extent of Ac.0.95 cts, 36/B to an extent of Ac.1.00, 37 to an extent of Ac.0.50 cts, 37/A3 to an extent of Ac.0.80 cts, 37 to an extent of Ac.1.47 cts and 38 to an extent of Ac.0.54 cts, situated at Machapuram village, Nandavaram Mandal without following the provisions under the Land Acquisition Act,1894 (for short 'the Act') as arbitrary and illegal.

It is the case of the petitioners that they are the owners and possessors of the lands held by them as noticed above and the respondents are trying to dispossess them from their lands, without any authority of law. The authorities have not issued any notification under Section 4(1) of the Act nor the petitioners have given their consent. Therefore, the action of the respondents in trying to dispossess them from the said lands is arbitrary and illegal.

A detailed counter affidavit is filed is filed by the 5th respondent denying the allegations made by the petitioners and stating *inter alia* that majority of the beneficiaries of Guru Raghavendra Project have given their consent; however, the petitioners have not given their consent, but the possession is sought to be taken in view of public

interest.

Having heard either counsel and having regard to the facts and circumstances of the case, I am of the view that even if majority of the beneficiaries of the irrigation project have given their consent, the State is not vested with the arbitrary power to deprive the properties of others, who did not give consent. In view of the above, the respondents are directed not to interfere with the peaceful possession and enjoyment of the petitioners over the lands in question, without invoking the provisions of the Act.

With the above direction, the Writ Petition is disposed of. No order as to costs.

03-1-2007

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